

2013 DRAFTING REQUEST

Bill

Received: 3/25/2013	Received By: agary
Wanted: As time permits	Same as LRB:
For: Travis Tranel (608) 266-1170	By/Representing: Stephanie Louis
May Contact:	Drafter: agary
Subject: Fin. Inst. - int. rates/loans Fin. Inst. - miscellaneous	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Tranel@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Prohibiting merchants from imposing surcharges on credit card transactions

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 3/29/2013	scalvin 3/29/2013	jmurphy 3/29/2013	_____ _____			
/P1	agary 5/28/2013			_____ _____	srose 3/29/2013		
/1		scalvin 5/28/2013	phenry 5/28/2013	_____ _____	lparisi 5/28/2013	mbarman 5/29/2013	

FE Sent For:

↳ Not
Needed

<END>

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/1		scalvin 5/28/2013	phenry 5/28/2013	_____	lparisi 5/28/2013		

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/?	agary	/P1 see 03/29/2013	Jw 3/29	self			

FE Sent For:

<END>

Gary, Aaron

To: Louis, Stephanie
Subject: RE: Research/Draft request from Rep. Tranel

From: Louis, Stephanie
Sent: Monday, March 25, 2013 4:25 PM
To: Gary, Aaron
Subject: Research/Draft request from Rep. Tranel

Aaron,

Based on your subject areas listed in the LRB reference guide I'm guessing that you might be able to help with both of Rep. Tranel's questions.

Rep. Tranel is wondering what other states have done to prevent retailers from adding credit card fees to purchases. I've included a link to a story that mentions a few other states have laws preventing this. <http://news.msn.com/us/new-credit-card-fee-hits-consumers-in-the-wallet>

Rep. Tranel is interested in drafting a bill to prevent retailers from passing along credit card fees to consumers in Wisconsin.

....

I am happy to chat about both of these issues if I can provide any further information. Please let me know if I should direct my questions to one of your colleagues.

Thank you for your help!

Stephanie Louis

Office of Rep. Tranel
slouis@legis.wi.gov
6-1170

NEWS

web search

US POLITICS WORLD SCIENCE & TECHNOLOGY POP CULTURE GALLERIES VIDEO



New credit card fee hits consumers in the wallet

New credit card fees

A new fee could be added to your credit card purchase. Some retailers started adding a fee of up to 4 percent on Sunday, Jan. 27, to recover the fee they have to pay credit card companies.

The fee is not applied to debit card purchases and is illegal in some states.

States where the fee is illegal:

-  Fee is illegal
-  Fee is legal



Source: Visa

MSN News: Charles W. Jones

1/28/13 | By Michelle McGuinness of MSN News

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17

EMAIL

A surcharge went into effect Sunday that allows retailers to charge consumers up to 4 percent when they use a credit card to pay for purchases.

Like to pay with credit? It may cost you.

A new surcharge went into effect Sunday that allows merchants to pass on a surcharge to consumers who pay with credit cards.

The new fee is the result of a settlement between the credit card companies and merchants, [according to CNN](#). The multi-billion dollar settlement was announced in July and it includes Visa, MasterCard and nine major banks, CNN reported.

But what does it mean for you? [Visa laid out](#) exactly how the new surcharge will affect ordinary consumers' purchases:

You will pay an additional fee when you use your credit card at retailers who decide to impose the surcharge.

The charge is capped at 4 percent. CNN reported that retailers can only charge enough to cover the processing cost, which is usually about 1.5 to 3 percent of the total purchase.

The charge will not apply to debit cards or prepaid cards – only credit cards.

Any retail who imposes the new surcharge has to notify consumers somehow, either at the store entrance, at the point of sale or in an "online environment."

You will see the surcharge on every receipt, whether you buy online or in a physical location.

Not all retailers will impose the surcharge. And those who do have the option of offering discounts to consumers who pay with cash, check or PIN debit instead.

Currently, 10 states prohibit surcharging. They are: California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma and Texas.

BUSINESS REACTS

Not all retailers were pleased with the settlement that led to the new surcharge, CNN reported. Target said last summer it wants no part in charging the fee "in order to allow Visa and MasterCard to continue charging unfair fees," CNN said. The National Retail Federation and several businesses asked a judge in November to reject the settlement, CNN reported.

Matt Kriebel is the owner of a small business in Philadelphia, [Spectrum Scientifics](#). He said has no intention of charging the fee – "absolutely not" – and neither do most of the businesses he knows of.



Ad Feedback

MOST POPULAR



Girl, 9, survives crash that killed dad

A 9-year-old girl climbed out of an SUV crash in a California canyon that killed her father and walked a mile at night before summoning a passing motorist for help.

Teen suspect 'absolutely' did not kill Ga. baby, lawyer says

Sky-dive instructor, student killed in Florida jump

A Look Back: Week in Photos

Week in review: Those we lost March 15-21

THE NEWS IN PICTURES



Snow Falls in Plains, Midwest

A major snowstorm hit the Plains and Midwest closing part of Interstate 70



Rumor has it

Does President Obama have a food taster? Find out which rumors are true.



Refugee camp fire in Thailand

At least 42 people died in a fire at a refugee camp near Myanmar

THE BEST NEWS VIDEO



Space memorabilia up for auction

About 300 space items are going up for auction Monday.



Kansas City man reunited with family

"It pretty much doesn't make any sense for me as a retailer to charge that fee," he said. Kriebel said it would be like punishing his customers.

Kriebel went a step farther, dropping a company he ordered bags for his store from because it decided to implement the fee.

He said consumers concerned about helping out small business should pay using a basic credit card — "no points, no magic" — because cards with more elaborate point schemes end up costing retailers more.

Related from MSN: [5 ways to avoid credit card rip-offs](#)

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Follow us on Twitter: www.twitter.com/msnnews

US



Teen did not kill Georgia baby, lawyer says

Sherry West said Saturday she was certain DeMarquise Elkins, 17, was the person who shot and killed her 13-month-old son Thursday morning, but Elkins' aunt says he was with her at the time.



Report: Standards lax at bioterror research labs

Facilities that research germs used in bioterror attacks are operated according to local standards, which can vary and lead to accidents, according to the U.S. Government Accountability Office.

Cops: Man staged knife attack to impress date

Police in Jonesboro, Ark., say a man who claimed he fought off a knife-wielding attacker staged the incident to impress his would-be date.



Gun in Texas shootout matches weapon in killing of Colorado prisons chief

Evan Spencer Ebel, who is also a suspect in the killing of a pizza deliveryman in Denver, has been linked to a prison-based white supremacist group.



Airline fares: Pay according to your weight?

An economist in Norway says airlines should charge passengers according to their weight — extra for obese flyers and discounts for those who weigh less than average.



Spring snow in East closes schools, cancels flights

Five days into spring, warm weather and budding flowers were just a rumor Monday as the East Coast endured another blast of winter.



Girl, 9, crawls out of crash that killed dad, walks mile for help in California

A 9-year-old girl climbed out of an SUV crash in a California canyon that killed her father and walked a mile at night before summoning a passing motorist for help.



Police investigate death of Mississippi state legislator



The story continues for the homeless man who returned

IN CASE YOU MISSED IT



Minnie Mouse gets makeover

Lanvin designer Alber Elbaz has designed a new dress for a grown-up Minnie Mouse.

Tilda Swinton performs art of sleeping in NYC

Experts: North Korea training teams of 'cyberwarriors'

Saplings from Anne Frank's tree take root in 11 US locations



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-~~1166~~ - 1988/p
ARG:sac:rs

in
3/29 days
RMNR

D-Note

2013 BILL

gen act

- 1 AN ACT *to renumber* 422.422; *to amend* 422.422 (title); and *to create* 422.422
2 (2) of the statutes; **relating to:** prohibiting merchants from imposing credit
3 card surcharges in consumer credit transactions.

Analysis by the Legislative Reference Bureau

Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). The WCA grants consumers certain rights and remedies and contains notice and disclosure requirements and prohibitions relating to consumer credit transactions, including consumer credit sales. Under both the WCA and federal law, a credit card issuer generally may not prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check, or similar means, rather than by use of a credit card.

This bill prohibits a merchant, in a consumer credit transaction, from imposing a surcharge (also known as a swipe fee, convenience fee, or checkout fee) on a customer for using a credit card in lieu of payment by cash, check, or similar means. However, the merchant may offer a discount to a customer to induce the customer to pay by cash, check, or similar means, rather than by use of a credit card. A

BILL

merchant that violates this prohibition on credit card surcharges is liable to the customer in the amount of \$25 and any actual damages sustained by the customer.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 422.422 (title) of the statutes is amended to read:

2 422.422 (title) **Cash discounts; credit card surcharges.**

3 SECTION 2. 422.422 of the statutes is renumbered 422.422 (1).

4 SECTION 3. 422.422 (2) of the statutes is created to read:

5 422.422 (2) (a) 1. A merchant honoring a credit card may not impose a
6 surcharge on a customer for using the credit card in lieu of payment by cash, check,
7 or similar means.

8 2. Notwithstanding subd. 1., a merchant may offer a discount to a customer to
9 induce the customer to pay by cash, check, or similar means, rather than by use of
10 a credit card.

11 (b) Charges for 3rd-party credit card guarantee services, when added to the
12 price charged by the merchant if cash were to be paid, are considered surcharges for
13 purposes of par. (a) 1. even if they are payable directly to the 3rd-party or are charged
14 separately.

15 (c) For purposes of this subsection, a merchant does not include any
16 governmental unit, as defined in s. 50.33 (1r).

17 **SECTION 4. Initial applicability.**

18 (1) This act first applies to transactions occurring on the effective date of this
19 subsection.

20 **SECTION 5. Effective date.**

SECTION 5

3 (END)

D - Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1988/P1dn

ARG:./.....

SAC

- date -

ATTN: Stephanie Louis

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have included these provisions in the Wisconsin Consumer Act (WCA). A related provision is already included there, see s. 422.422, stats., and most credit card regulation is found in the WCA. Unless a specific penalty is included in the draft, the penalty under s. 425.302 will apply, along with any other applicable remedy specified in ch. 425. I included created s. 422.422 (2) (c) in this draft to make clear that the bill does not prohibit agencies like DOT from imposing a convenience fee for allowing the customer to complete the transaction using a credit card.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1988/P1dn
ARG:eev:jm

March 29, 2013

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Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, May 28, 2013 2:02 PM
To: Curry, Jeff
Subject: RE: Rep. Tranel's Office

Sorry for the delay. The drafts are identical. I'll make your draft (-1988) a /1 and then you should be able to introduce it as an assembly companion. You'll have it today. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Curry, Jeff
Sent: Tuesday, May 28, 2013 9:24 AM
To: Gary, Aaron
Subject: RE: Rep. Tranel's Office

Aaron,

Were you able to look at the two bill and see if they were the same or not? Thanks, Jeff Curry – Rep. Tranel's Office

From: Gary, Aaron
Sent: Friday, May 24, 2013 3:51 PM
To: Curry, Jeff
Subject: RE: Rep. Tranel's Office

Jeff,
I'll have to check to see if LRB-1366 and LRB-1988 are exactly identical. If not, I'll just redraft LRB-1988 to a /1 to make it exactly identical to LRB-1366. Either way, the senate bill will be -1366 and the assembly companion will be -1988.

Aaron

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From: Curry, Jeff
Sent: Friday, May 24, 2013 3:45 PM
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Jeff Curry
Rep. Tranel's Office

From: Sen.Hansen
Sent: Wednesday, May 22, 2013 3:37 PM
To: *Legislative Senate Democrats; *Legislative Senate Republicans; *Legislative Assembly Democrats; *Legislative Assembly Republicans
Subject: Co-sponsorship of LRB 1366/1, relating to prohibiting merchants from imposing credit card surcharges in consumer credit transactions

To: All Legislators

From: Sen. Dave Hansen

Date: 5/22/13

Re: Co-sponsorship of LRB 1366/1, relating to prohibiting merchants from imposing credit card surcharges in consumer credit transactions

This bill would prevent a merchant from imposing a surcharge (also known as a swipe fee, convenience fee, or checkout fee) on transactions involving credit cards. There are currently ten states which ban this practice, including California, Colorado, Connecticut, Florida, Kansas, Massachusetts, New York, Oklahoma, and Texas.

Eighteen more states are currently considering similar legislation as a result of new rules which would allow merchants for the first time ever to impose surcharges on MasterCard and Visa purchases. Most stores already factor in the cost of processing credit cards when they price their merchandise. Allowing merchants to impose a surcharge would amount to double-dipping.

If you would like to be listed as a co-sponsor on this legislation, please **reply to this email** by Friday, May 31.

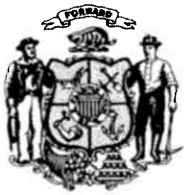
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<< File: 13-1366_1 (1).pdf >>



State of Wisconsin
2013 - 2014 LEGISLATURE

in
5/28



LRB-1988/

ARG:sac:jm

TODAY

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

Gen cat

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20 **SECTION 5. Effective date.**

1 (1) This act takes effect on the first day of the 3rd month beginning after
2 publication.

3 (END)

Barman, Mike

From: Gary, Aaron
Sent: Tuesday, May 28, 2013 3:49 PM
To: Barman, Mike
Cc: Curry, Jeff
Subject: RE: Rep. Tranel's Office

Hi Mike,

Can you please have LRB-1988 jacketed for Rep. Tranel? Thanks. Aaron

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<< File: 13-1366_1 (1).pdf >>

Parisi, Lori

From: Curry, Jeff
Sent: Tuesday, May 28, 2013 4:28 PM
To: LRB.Legal
Subject: Draft Review: LRB -1988/1 Topic: Prohibiting merchants from imposing surcharges on credit card transactions

Please Jacket LRB -1988/1 for the ASSEMBLY.